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October 6, 2021

Honorable Eric R. Komitee  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *U.S. v. Orena*; 92-cr-351 (EK) (Related: 20-cv-4548 (EK))

Dear Judge Komitee:

I represent the Defendant (Movant), Mr. Victor Orena, in the above-referenced case. On August 19, 2021, the Court entered a text only Scheduling Order, directing, *inter alia*, counsel to appear in person on October 13, 2021, to orally argue Mr. Orena's pending compassionate release motion [ECF## 1864-1866; 1869], and for re-sentencing the same day, if necessary [August 19, 2021 Scheduling Order].

Following my request for a partial modification of that Scheduling Order, in which I asked that any re-sentencing be held in abeyance pending briefing (and a resolution) of the remaining §2255 claims (if the same is necessary, after the resolution of the compassionate release motion) [ECF# 1871], the Court entered another text only Scheduling Order on September 20, 2021, granting the requested modification and thus providing, in pertinent part, that the October 13, 2021 in-person appearance will be limited to oral argument on the compassionate release motion [September 20, 2021 Scheduling Order].<sup>1</sup>

I am writing today to respectfully request that Mr. Orena's family and supporters be permitted to attend the in-person hearing on October 13, 2021, and, if permission is granted, I am asking for a directive as to how many spectators will be permitted.

My review of the Court's relevant Administrative Orders leads me to write with this request. The most recent Administrative Order, No. 2021-04-7, dated September 30, 2021, expressly advises that all provisions of Administrative Order 2020-06, as amended by Administrative Orders 2020-26-1, 2021-04, and 2021-04-1, shall remain in effect through

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<sup>1</sup> It is assumed that the proceeding remains scheduled as an in-person proceeding on October 13, 2021, even though it is now limited to oral argument on the compassionate release motion.

October 31, 2021.<sup>2</sup>

Administrative Orders 2021-04 and 2021-04-1, incorporated in the most recent Administrative Order, provide, *inter alia*, that the number of people permitted to be present for any authorized in-person proceeding is limited to twenty-five (25), “including the presiding judge, court staff, case participants, and members of the public, absent prior consultation with the Chief Judge.” [Administrative Order No. 2021-4-1 at 2, incorporated into No. 2021-04-07 at 2 (Sept. 30, 2021) (underlined in the original)].

On that background and in consideration of the relevant Administrative Orders, including (1) the balance reflected in the September 30, 2021 Administrative Order (No. 2021-04-07), between the “need to assist in the preservation of public safety” (in light of continuing COVID-19 concerns) and “effectively administering justice during a critical period in the COVID-19 pandemic” and (2) the twenty-five (25) person limitation in the incorporated Administrative Orders, on behalf of Mr. Orena, I respectfully request a directive from the Court as to whether Mr. Orena’s family and supporters can attend the in-person oral argument on October 13, 2021, in the courtroom, and, if so, how many can attend.

If permission is granted, I will, of course, direct those who will be attending to Administrative Order No. 2020-22 (Entry Restrictions) and to the Health and Safety Protocols for Courthouses in the Eastern District of New York, <https://img.nyed.uscourts.gov/files/pub-news/EDNY%20Health%20and%20Safety%20Protocols.pdf>, all of which is available on the Court’s website.

Respectfully,

/s/ David I. Schoen  
Counsel for Victor J. Orena

cc: AUSA Devon Lash, Esq.;  
AUSA Elizabeth Geddes, Esq.  
(Via ECF)

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<sup>2</sup> Footnote 4 to No. 2021-04-07, lists those proceedings for which in-person appearances remain suspended. While it would be very difficult for the Chief Judge to foresee the nature of all possible hearings, a hearing on a compassionate release motion is not included on the list of hearings for which in-person appearances are suspended (e.g. arraignments, detention hearings, preliminary hearings, and pre-indictment proceedings). *See also*, Administrative Order No. 2021-05-2, at 4-5, (September 18, 2021), listing hearings for which alternatives to in-person proceedings remain authorized and at footnote 14 (providing, *inter alia*, exemptions from the in-person suspension for “criminal hearings” and “conferences.”).